

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GARY SMITH,

Plaintiff,

v.

FEDERAL BUREAU OF
INVESTIGATION,

Defendant.

No. 2:24-cv-0995-DC-SCR

FINDINGS AND RECOMMENDATIONS

Plaintiff is proceeding pro se in this action, which was referred to a magistrate judge pursuant to Local Rule 302(c)(21). On February 6, 2025, this Court granted Plaintiff's motion for leave to proceed in forma pauperis ("IFP") but found that the Complaint failed to state a claim under the Freedom of Information Act ("FOIA"). ECF No. 6 at 1, 6. Plaintiff was ordered to file a First Amended Complaint within 30 days of the date of that order, and was admonished that failure to do so may result in the undersigned recommending that the action be dismissed. *Id.* at 6. To date, Plaintiff has not amended his Complaint.

IT IS HEREBY RECOMMENDED that this action be DISMISSED without prejudice. As explained in the Court's earlier screening order, ECF No. 6, the Complaint fails to state a claim on which relief can be granted and is accordingly subject to dismissal under the IFP statute. *See* 28 U.S.C. § 1915(e). Dismissal is also warranted for Plaintiff's failure to follow the Court's order requiring the filing of an amended complaint and failure to prosecute this case. *See* Fed. R.

1 Civ. P. 41(b); Local Rule 110.

2 These findings and recommendations will be submitted to the United States District Judge
3 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen days**
4 after being served with these findings and recommendations, plaintiff may file written objections
5 with the court. The document should be captioned “Objections to Magistrate Judge’s Findings
6 and Recommendations.” The plaintiff is advised that failure to file objections within the specified
7 time may result in waiver of the right to appeal the District Court’s order. *Martinez v. Ylst*, 951
8 F.2d 1153 (9th Cir. 1991).

9 DATED: June 10, 2025

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12 SEAN C. RIORDAN
13 UNITED STATES MAGISTRATE JUDGE
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